

Message Text

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ACTION STR-07

INFO OCT-01 STRE-00 AF-10 ARA-10 EA-10 EUR-12 NEA-10
OIC-02 IO-13 AGRE-00 CEA-01 CIAE-00 COME-00
DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15
ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01 DOE-15
JUSE-00 ISO-00 /168 W
-----048405 251449Z /46

P 251434Z JUL 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 2492
INFO ALL EC CAPITALS
AMEMBASSY BRASILIA
AMEMBASSY HELSINKI
AMEMBASSY MEXICO
AMEMBASSY OSLO
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO

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USMTN USEEC USOECD

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A
TAGS: MTN, ETRD
SUBJECT: MTN: STANDARDS - REVIEW OF JULY EVENTS
- AND FUTURE WORK PROGRAM

1. SUMMARY: DURING FIRST TWO WEEKS IN JULY INTENSIVE
BILATERAL SESSIONS WERE HELD WITH EC IN AN ATTEMPT
TO FIND COMMON GROUND ON KEY ISSUES, BUT 113 COMMITTEE
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FAILED TO REACT AFFIRMATIVELY TO POSSIBLE COMPROMISE
SOLUTIONS. IN ADDITION, 113 COMMITTEE DISCUSSIONS
REVEALED A NEW AREA OF DIFFICULTY IN THAT CERTAIN
MEMBER STATES DO NOT CONSIDER COMMISSION STANDARDS
DIRECTIVES SUBJECT TO THE FIRST LEVEL OF THE CODE'S
OBLIGATIONS. A BRIEF SUBGROUP MEETING WAS HELD TO
LAY OUT THE OUTSTANDING ISSUES FOR CONSIDERATION AT THE

NEXT MEETING IN EARLY SEPTEMBER. IN FOLLOW-UP SESSIONS U.S. AND EC DEVELOPED A FUTURE WORK PROGRAM TO FRAME THE PRINCIPAL ISSUES FOR RESOLUTION AND TO EDUCATE MEMBER STATES TO RATIONALE FOR U.S. POSITION ON KEY ISSUES. END SUMMARY.

2. WEEKS OF JULY 3 AND 10 WERE DEVOTED TO INTENSIVE BILATERAL SESSIONS WITH EC AND CANADA IN AN ATTEMPT TO FIND COMMON GROUND FOR RESOLVING KEY ISSUES IN THE DRAFT STANDARDS CODE. ON LEVELS OF OBLIGATION, U.S. AND CANADA SHARED POSITION THAT ISSUES COULD BE DEALT WITH IN TERMS OF THE CURRENT GATT DISPUTE SETTLEMENT MECHANISM. FOR EXAMPLE, LACK OF MUTUALLY ACCEPTABLE SOLUTION, THROUGH THE USE OF "BEST EFFORTS", TO CORRECT AN ACTION ALLEGEDLY INCONSISTENT WITH THE CODE'S OBJECTIVES AND WHERE THAT ACTION HAD CAUSED ADVERSE TRADE EFFECTS ON ANOTHER ADHERENT, WOULD RESULT WITH THE COMMITTEE AUTHORIZING APPROPRIATE REMEDIES. SUCH AN INTERPRETATION SHOULD APPLY WHEREVER "BEST EFFORTS" APPEARS IN THE CODE, E.G., OBLIGATIONS VIS-A-VIS REGIONAL STANDARDS AND CERTIFICATION BODIES AS WELL AS STATE, LOCAL, AND PRIVATE BODIES. EC (MACDONALD) AGREED TO TRY OUT THIS APPROACH WITH THE 113 COMMITTEE.

3. U.S. DEL (NEWKIRK) MAINTAINED OUR POSITION OF "PART-LIMITED OFFICIAL USE

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ICIPATION" IN REGIONAL CERTIFICATION SYSTEMS, I.E. ALLOWING NON-MEMBERS TO RECEIVE THE MARK OF THE REGIONAL SYSTEM AS WELL AS ACCEPTING SELF-CERTIFICATION BY PRODUCERS IN NON-MEMBER COUNTRIES ON SAME BASIS AS SELF-CERTIFICATION OF PRODUCERS WITHIN MEMBER COUNTRIES. FURTHERMORE, SUCH "PARTICIPATION" MUST BE WITHOUT ANY QUALIFICATION. EC INITIALLY RESISTED THIS CONCEPT BUT SPECULATED MEMBER STATES MIGHT BE AGREEABLE TO GRANT SUCH RIGHTS IF THERE WOULD BE SOME FORM OF RECIPROCITY. U.S. STRONGLY OBJECTED TO THE NOTION OF PAYING FOR "PARTICIPATION" IN REGIONAL SYSTEMS, BUT CONCEDED THAT, AS A GENERAL PROPOSITION, THERE SHOULD BE A MUTUAL BALANCE OF BENEFITS DERIVED FROM THE CODE.

4. INFORMAL GROUP REVERTED TO CONSIDERATION OF TECHNICAL DRAFTING ISSUES, INCLUDING THE NORDIC REDRAFT OF SECTIONS 5 THROUGH 15. AFTER REVIEWING THE DOCUMENT, CANADIANS UNDERTOOK TO REDRAFT THE PAPER ADDING CONCEPT OF MFN IN ADDITION TO NATIONAL TREATMENT. U.S. DEL REINTRODUCED NATIONAL TREATMENT FOR STANDARDS PROVISIONS OF THE CODE TO WHICH CANADA

ALSO SUGGESTED INCORPORATION OF THE MFN CONCEPT.

5. REGIONAL CERTIFICATION SYSTEMS: EVEN THOUGH NO COMPROMISE WAS REACHED WITH THE EC ON THE CERTIFICATION ISSUE, WILLIAMS OPENED UP DEBATE IN INFORMAL GROUP ON THIS TOPIC TO ELICITE "NEW VIEWS". NORDICS (STALBERG) TOOK FLOOR WITH UNUSUALLY STRIDENT STATEMENT DECLARING THAT PARTICIPATION IN REGIONAL SYSTEMS, WITHOUT SOME QUALIFICATION, "IS NOT ON". IN NORDIC VIEW PARTICIPATION IN REGIONAL SYSTEMS WOULD HAVE TO BE SUBJECT TO SUCH QUALIFICATION TO RENDER THE PROPOSED MFN CONCEPT TOOTHLESS. FURTHERMORE, GRANTING PARTICIPATION IN REGIONAL SYSTEMS SHOULD BE SUBJECT TO NEGOTIATION WITH ADEQUATE RECIPROCITY. EC, APPARENTLY LIMITED OFFICIAL USE

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BOLSTERED BY THE FORCEFUL NORDIC INTERVENTION STRONGLY

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INFO OCT-01 STRE-00 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-10 OIC-02 IO-13 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 JUSE-00 /168 W

-----048532 251455Z /43

P 251434Z JUL 78

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 2493

INFO ALL EC CAPITALS

AMEMBASSY BRASILIA

AMEMBASSY HELSINKI

AMEMBASSY MEXICO

AMEMBASSY OSLO

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

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SUPPORTED THE NORDIC POSITION.

6. CANADA (DOUGLAS) RETORTED THAT "ACCESS" TO CERTIFICATION SYSTEMS IS NECESSARY BUT NOT SUFFICIENT ELEMENT IN THE CODE AND WAS DRAWN INTO ACRIMONIOUS DEBATE WITH EC ON BENEFITS OF REGIONAL SYSTEMS VERSUS THOSE OF NATIONAL SYSTEMS. U.S. DEL (WALLAR) INTERVENED ASKING GROUP TO RETAIN PERSPECTIVE OF PROBLEM. IN U.S. VIEW, WHEN REGIONAL SYSTEMS ARE CREATED, AND TRADE OF PARTICIPANTS OF SYSTEM IS THEREBY FACILITATED, LIMITED OFFICIAL USE

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IT STANDS TO REASON THAT THOSE COUNTRIES OUTSIDE THE SYSTEM ARE DISADVANTAGED. THEREFORE, THE RIGHT TO SOME FORM OF PARTICIPATION IS NECESSARY TO REDRESS THE IMBALANCE CREATED BY THE REGIONAL SYSTEM. U.S. RECOGNIZED THAT TECHNICAL COMPETENCE IS A NECESSARY CONDITION FOR A NON-MEMBER TO BECOME A PARTICIPANT IN A CERTIFICATION SYSTEM BUT THAT NEGOTIATION INVOLVING ECONOMIC RECIPROCITY IS NOT APPROPRIATE. IF SUCH RECIPROCITY WERE ACKNOWLEDGED, THE STANDARDS CODE COULD GIVE CARTE BLANCHE TO CREATION OF TRADE OBSTACLES TO BE BARGAINED AWAY FOR TRADE CONCESSIONS IN STANDARDS AS WELL AS IN RELATED AREAS. JAPAN (TAMORI), CANADA, AND AUSTRALIA (HELY) SUPPORTED THE U.S. POINT OF VIEW, ALL POINTING TO THE MFN RIGHTS OF THE GATT AS A PRINCIPLE TO BE REFLECTED IN THE CODE.

7. IN LIGHT OF THE DEBATE THE NORDICS INFORMALLY CIRCULATED A DRAFT PARAGRAPH THAT WOULD REQUIRE NATIONAL SYSTEMS TO BE OPEN TO PARTICIPATION ON THE SAME TERMS AND CONDITIONS AS REGIONAL ORGANIZATIONS. IN CANADIAN VIEW, SUCH FIRST LEVEL OF OBLIGATION WOULD MAKE CERTIFICATION ARRANGEMENTS MANDATORY AND IS THEREFORE UNACCEPTABLE. IN A NORDIC SIDE COMMENT, IT WAS MADE CLEAR THAT THIS INFORMAL TEXT IS DESIGNED TO STIFFEN EC RESISTANCE TO OPENING UP REGIONAL CERTIFICATION SYSTEMS. - -

8. MEANWHILE, EFFORTS IN 113 COMMITTEE TO FIND COMPROMISE POSITION PROVED UNSUCCESSFUL. COMMITTEE DID NOT FAVOR EXTENSION OF COMPROMISE ON LEVELS OF OBLIGATION TO COVER REGIONAL SYSTEMS AND REFERENCE TO ADVERSE TRADE EFFECTS. FURTHERMORE, THEY WOULD LIKE TO PIN DOWN THEIR EXPECTATION THAT BEST EFFORTS WILL PRO-

DUCE "IDENTICAL" RESULTS AS THOSE ACHIEVED UNDER THE
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FIRST LEVEL OF OBLIGATION. IN ADDITION, A NEW PROBLEM
WAS REVEALED. APPARENTLY, SOME MEMBER STATES WILL NOT
ACCEPT CERTIFICATION OF OTHER MEMBER STATES ON CERTAIN
PRODUCTS (AUTOMOBILES) EVEN THOUGH THESE ARE SUBJECT
TO AN EC COMMUNITY-WIDE DIRECTIVE. THE CONSEQUENCE
OF THIS POSITION IS THAT THOSE MEMBER STATES DO NOT
REGARD THE EC AS A "CENTRAL GOVERNMENT BODY" IN TERMS
OF THE DRAFT STANDARDS CODE AND SUBJECT TO THE FIRST
LEVEL OF OBLIGATION. THUS, WHERE THERE IS A COMMUNITY
STANDARDS DIRECTIVE THE EC SHOULD BE REGARDED ONLY AS A
REGIONAL BODY AND SUBJECT TO THE SECOND LEVEL OF
OBLIGATIONS. THE EC HAD BEEN AWARE OF THIS PROBLEM
BUT HAD HOPED THAT THE MEMBER STATES IN QUESTION
WOULD HAVE MODIFIED THEIR POSITION AS PART OF FINAL
MTN PACKAGE.

9. IN SUBSEQUENT BILATERAL SESSION U.S. SAID 113 COMMIT-
TEE APPROACH WOULD IMPOSE TIGHT DISCIPLINE ON U.S.
PRACTICES WHILE ALLOWING THE EC TO OPERATE WITH A
RELATIVELY FREE HAND. THIS APPROACH WAS TOTALLY
UNACCEPTABLE TO THE UNITED STATES. EC TOOK THE
POINT AND AGREED WITH THE U.S. THAT AS A FIRST STEP TO
TRY TO FOCUS OUTSTANDING ISSUES EXISTING PROPOSALS
SHOULD BE INCORPORATED INTO DRAFT TEXT SO THAT CONSE-
QUENCES OF THESE PROPOSALS CAN BE READILY SEEN. IN
ADDITION, EC PROPOSED THAT AN INFORMATIONAL MEETING BE
HELD WITH THE MEMBER STATES TO ENSURE THAT U.S. POINT
OF VIEW IS FULLY UNDERSTOOD. SEPTEMBER 6 OR 7 IS
TENTATIVELY SCHEDULED FOR THIS SESSION.

10. SUBGROUP MEETING: WILLIAMS CONVENED THE SUBGROUP ON
21 JULY FOR A VERY BRIEF MEETING. WILLIAMS REVIEWED
THE OUTSTANDING ISSUES AND SUGGESTED THAT DELEGATIONS
COME FORWARD WITH PROPOSALS THAT COMMAND THE GENERAL
SUPPORT OF A NUMBER OF DELEGATIONS ON LEVELS OF
OBLIGATION AND REGIONAL CERTIFICATION SYSTEMS. IN
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ADDITION HE VOLUNTEERED TO DRAFT A NEW TEXT ON DISPUTE
SETTLEMENT DRAWING UPON THE WORK WHICH HAS GONE
FORWARD IN OTHER AREAS AS WELL AS HIS CONSULTATION
WITH DELEGATIONS. FINALLY, HE SUGGESTED THAT THE

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DOE-15 JUSE-00 /168 W
-----048554 251456Z /43

P 251434Z JUL 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 2494
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SUBGROUP TACKLE THE ISSUE OF SPECIAL AND DIFFERENTIAL
TREATMENT. HE NOTED THAT AGRICULTURAL COVERAGE IS
AN OUTSTANDING ISSUE AND SUBJECT TO DELIBERATIONS IN
GROUP AGRICULTURE. NEW DOCUMENTS CIRCULATED (BUT NOT
DISCUSSED) AT THE SUBGROUP MEETING WERE CANADIAN
REDRAFT OF THE NORDIC PROPOSAL ON REWRITING SECTIONS
5 THROUGH 15 OF THE CODE AND SUMMARY OF ACTIVITIES OF
INTERNATIONAL ORGANIZATIONS IN PROVIDING ASSISTANCE
TO DEVELOPING COUNTRIES IN THE AREA OF STANDARDS AND
CERTIFICATION. U.S. URGED DELS TO ADDRESS OUTSTANDING
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ISSUES SO THAT MEETINGS IN EARLY SEPTEMBER COULD
ADVANCE THE NEGOTIATIONS. THE EC REMARKED THAT WHILE
STANDARDS HAD STARTED OUT IN ADVANCE OF THE WORK IN
OTHER NTM GROUPS IT HAS NOW DEFINITELY FALLEN BEHIND.
THE NEXT MEETING OF THE SUBGROUP WILL BE SET BY
THE CHAIRMAN IN CONSULTATION WITH DELEGATIONS IN THE
EARLY PART OF SEPTEMBER.

11. DRAFTED BY WALLAR. MCDONALD

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Message Attributes

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Control Number: n/a
Copy: SINGLE
Draft Date: 25 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
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Handling Restrictions: n/a
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ISecure: 1
Legacy Key: link1978/newtext/t19780724/aaaaaugo.tel
Line Count: 341
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Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 55c6676d-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
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Review Action: RELEASED, APPROVED
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Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1899194
Secure: OPEN
Status: NATIVE
Subject: MTN: STANDARDS - REVIEW OF JULY EVENTS - AND FUTURE WORK PROGRAM
TAGS: ETRD, MTN
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/55c6676d-c288-dd11-92da-001cc4696bcc
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